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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,332	11/20/2003	Kouji Amitani	03691/LH	2626
1933	7590	02/03/2006	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			HO, ALLEN C	
220 Fifth Avenue			ART UNIT	
16TH Floor			PAPER NUMBER	
NEW YORK, NY 10001-7708			2882	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

BJK

Office Action Summary	Application No.	Applicant(s)	
	10/719,332	AMITANI ET AL.	
	Examiner	Art Unit	
	Allen C. Ho	2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-10,13-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-10,13-17,20 and 22 is/are rejected.
- 7) ☒ Claim(s) 19 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 6, 13, 14, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Abel (U. S. Patent No. 2,680,199).

With regard to claim 1, Abel disclosed a radiation image radiographing apparatus comprising: a radiation source (13); a subject platform (10) for supporting a subject so as to face the subject to the radiation source while the patient is in the upright position; and a plurality of supporting platforms (41, 42, 43) for supporting a radiation image information detecting member, the plurality of supporting platforms being positioned on a opposite side of the subject platform with respect to the radiation source; wherein the plurality of supporting platforms are provided at fixed distances from the radiation source, and at least tow of the supporting platforms are provided at respective different distances from the radiation source; wherein each of the plurality of supporting platform is individually movable to be evacuated from a position in which the supporting platform faces the radiation source (a supporting platform could be evacuated/removed by any means).

With regard to claims 5 and 6, Abel disclosed the apparatus of claim 1. The recitation "a plurality of supporting platforms for supporting a radiation image information detecting

member" in claim 1 is construed as a plurality of supporting platforms intended to support a radiation image information detecting member; this recitation claims only a plurality of supporting platforms, but not a radiation image information detecting member. Since claim 1 does not claim a radiation image information detecting member, further limitation on the radiation image information detecting member as recited in claims 5 and 6 is also not accorded any patentable weight. Accordingly, claims 5 and 6 are rejected with claim 1.

With regard to claim 13, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platforms detachably supports the radiation image information detecting member (a radiation image information detecting member could be detached/removed from the supporting platform).

With regard to claim 14, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platform is detachably attached to a body of the radiation image radiographing apparatus (a supporting platforms could be detached by any means).

With regard to claim 16, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platforms is retractable (by rails 18).

With regard to claim 17, Abel disclosed the apparatus of claim 1, wherein at least one of the plurality of supporting platforms is mounted on a body of the apparatus to be movable along an irradiation direction of the radiation from the radiation source (column 5, lines 10-14).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel (U. S. Patent No. 2,680,199) as applied to claim 1 above, and further in view of Tsurumaki *et al.* (U. S. Patent No. 5,177,778).

With regard to claims 4, 9, and 10, Abel disclosed the apparatus of claim 1. However, Abel failed to disclose a controller that includes a switcher for switching between radiography modes corresponding respectively to the plurality of support platforms, and wherein each of the plurality of platforms comprises a sensor.

Tsurumaki *et al.* disclosed a controller (50) having a switcher (52) and a plurality of sensors (51a-51g), each sensor detects a status of a component of the radiographing apparatus. A radiographing mode is implemented only when the switcher is in the neutral position.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the radiation image radiographing apparatus with a controller having a switcher and a sensor for each of the plurality of supporting platforms, since a person would be motivated to activate a radiographing mode only when the situation permits.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel (U. S. Patent No. 2,680,199) as applied to claim 1 above, and further in view of Strawder (U. S. Patent No. 5,737,386).

With regard to claims 7 and 8, Abel disclosed the apparatus of claim 1. However, Abel failed to disclose a radiation operation panel comprising keys for inputting a radiographing mode.

Strawder disclosed a radiation operation panel (30, 40) comprising keys (10) for selecting a radiographing mode. Strawder taught this radiation operation panel accurately sets up exposure parameters to create a satisfactory x-ray image. Incorrect exposure parameters would lead to x-ray images of poor quality and repeat of the procedure (column 1, line 56 - column 2, line 16).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to supplement the radiation image radiographing apparatus with a radiation operation panel comprising keys for selecting a radiographing mode, since a person would be motivated to obtain an x-ray image of good quality by using correct exposure parameters.

6. Claims 15, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abel (U. S. Patent No. 2,680,199) as applied to claim 1 above, and further in view of Ohkoda (U. S. Patent No. 6,934,361 B2).

With regard to claim 15, Abel disclosed the apparatus of claim 1. However, Abel failed to teach that at least one of the plurality of supporting platforms is swingably mounted on a body of the apparatus.

Ohkoda disclosed a radiation image radiographing apparatus that comprises a support platform swingably mounted on a body of the apparatus (Fig. 10). Ohkoda taught that this arrangement is suitable for photographing a long part of a patient (column 10, lines 1 - 13).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to mount the support platforms swingably to a body of the apparatus, since a person would be motivated to photograph a long part of a patient.

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With regard to claim 20, Abel disclosed the apparatus of claim 1. Since claim 15 fails to set forth additional structural limitation, it is rejected with claim 15.

With regard to claim 22, Abel disclosed the apparatus of claim 1. Since claim 1 fails to claim a radiation image information detecting member, it is rejected with claim 15. See the rejection of claims 5 and 6 above.

Allowable Subject Matter

7. Claims 19 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 23 June 2005 have been fully considered but they are not persuasive.

The applicants argue that Abel failed to disclose a radiation image radiographing apparatus for mammography, which radiographs a patient in an upright position. This recitation is construed as intended use. The recitation "a radiation image radiographing apparatus for mammography which radiographs a patient in an upright position" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*,

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535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). To properly claim a mammography radiographing apparatus, a structure, such as a breast compression plate, that is unique to mammography should be claimed in the body of the claim.

The applicants further argue that Abel failed to disclose a subject platform for supporting a subject so as to face the subject to the radiation source while the patient is in the upright position. This argument is not persuasive since a patient could sit and/or stand upright on the subject platform (10) disclosed by Abel.

The rejections are being maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached at (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allen C. Ho
Primary Examiner
Art Unit 2882

31 January 2006